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Attorney for Plaintiff Applied Technology and Counterclaim Defendants Fetter & Henderson  
(Pty) Ltd. and John Fetter

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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APPLIED TECHNOLOGY LIMITED,

07 CV 6620 (LTS)

Plaintiff,

- against -

WATERMASTER OF AMERICA, INC.,

Defendant.

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WATERMASTER OF AMERICA, INC.

Counter-Plaintiff,

- against -

APPLIED TECHNOLOGY LIMITED, JOHN  
FETTER, and FETTER & HENDERSON LTD

Counter-Defendants.

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**DECLARATION OF BRIAN HAMLIN IN CONNECTION WITH  
MOTION TO DISQUALIFY COUNSEL OF RECORD FOR DEFENDANT**

BRIAN HAMLIN hereby declares under penalty of perjury:

1. I am the Director of Plaintiff, Applied Technology Limited, in this action. I have held that position since April 21, 2005. As such, I am familiar with the books and records of Applied Technology Limited.

2. I make this declaration in connection with the motion by Plaintiff and Counterclaim Defendants John Fetter (“Mr. Fetter”) and Fetter & Henderson (Pty) Ltd. for an Order by this Court disqualifying Defendant’s attorneys of record, William R. Hansen, Esq. (“Mr. Hansen”) and Lathrop and Gage, L.C. (together, “Defendant’s counsel”). As to Plaintiff, the grounds for this motion are (a) that Defendant’s counsel presently are the attorneys of record for Plaintiff before the United States Patent and Trademark Office with respect to a trademark owned by Plaintiff and (b) that Defendant’s counsel came into possession of certain privileged and confidential information of Plaintiff, that bears substantial and identical relationships to the subject matters of this case, during Mr. Hansen’s representation of Mr. Fetter and Fetter & Henderson (Pty) Ltd.

3. Plaintiff has never consented to Defendant’s counsel representing Defendant, Watermaster of America, Inc., in this case. Nor have Defendant’s counsel ever sought such consent from Plaintiff. In fact, Plaintiff has never received any communication of any kind whatsoever from Defendant’s counsel regarding their appearance in this case.

4. Applied Technology Limited is the owner of United States registered trademark number 2847998 for the name “Multifil,” which registration occurred on or about June 1, 2004.

5. Annexed hereto as Exhibit “A” is a printout of information that appears on the “web site” maintained by the United States Patent and Trademark Office, which information shows that, beginning in or about July of 2001, Mr. Hansen prosecuted the trademark application for Multifil on behalf of Applied Technology Limited. Exhibit “A” also shows that, on or about

December 30, 2004, or six months after the Multifil trademark was registered, Defendant's counsel filed a "TEAS Change of Correspondence" that listed Mr. Hansen as the attorney of record and Lathrop & Gage, L.C. as the correspondent for Applied Technology Limited with respect to the Multifil trademark.

6. To the best of my knowledge, Defendant's counsel have not filed a request for permission to withdraw as the attorneys of record for Applied Technology Limited with the Patent and Trademark Office. Certainly, the books and records of Applied Technology Limited show no receipt by Plaintiff of such a request. Furthermore, Applied Technology Limited never terminated Defendant's counsel as its attorney of record and correspondent with respect to the Multifil trademark.

7. As of this date, Applied Technology Limited is relying upon Defendant's counsel, as its counsel of record before the Patent and Trademark Office, to advise it concerning any notices, correspondence or other communications it receives concerning the Multifil trademark. There is no one other than Defendant's counsel who is authorized to act as the attorneys for Plaintiff with respect to the Multifil trademark.

8. Consequently, Defendant's counsel are and remain the only attorneys representing Applied Technology Limited with respect to the Multifil trademark.

9. I understand from Mr. Fetter that, during meetings he had with Mr. Hansen on or about September 7, 1999, Mr. Hansen came into possession of privileged and confidential information of Plaintiff, in the course of Mr. Hansen's representation of Mr. Fetter and Fetter & Henderson (Pty) Ltd., regarding certain aspects of Plaintiff's business dealings with Defendant. I understand from Mr. Fetter that that privileged and confidential information bears a substantial and identical relationship to the allegations in paragraphs numbered "41," "42," "43," "44," "48,"

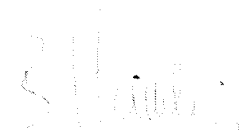
"49," "50," "51," "54," "55," "56," and "58" of the Counterclaims. I also understand from Mr. Fetter that Mr. Hansen issued a statement for services, dated December 21, 1999, that shows that the scope of the services that Mr. Hansen provided to Mr. Fetter and Fetter & Henderson (Pty) Ltd. included the "off shore business" of Mr. Fetter and Fetter & Henderson (Pty) Ltd. conduct. Of course, the "offshore business" of Fetter & Henderson (Pty) Ltd. includes its business with Applied Technology Limited and Applied Technology Limited's business with Defendant.

10. Defendant's counsel already have used the privileged and confidential information of Applied Technology Limited to formulate their counterclaims in this case. Applied Technology Limited and I are extremely concerned that they will use that same privileged and confidential information in an attempt to taint the trial of this case.

11. For all of the foregoing reasons, it is respectfully submitted that this Court ought to issue an Order disqualifying William R. Hansen, Esq. and Lathrop and Gage, L.C. as counsel of record for Defendant, Watermaster of America, Inc., in this case.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: New York, New York  
October 23, 2007



BRIAN HAMLIN

EXHIBIT A

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2007-10-23 08:34:46 ET**

**Serial Number:** 76237497 Assignment Information      Trademark Document Retrieval

**Registration Number:** 2847998

**Mark (words only):** MULTIFIL

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2004-06-01

**Filing Date:** 2001-04-02

**Transformed into a National Application:** No

**Registration Date:** 2004-06-01

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 110

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-06-22

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### LAST APPLICANT(S)/OWNER(S) OF RECORD

1. APPLIED TECHNOLOGY LTD.

**Address:**

APPLIED TECHNOLOGY LTD.  
P.O. Box 621 LeGallais Chambers, 54 Bath Street  
St. Helier, Jersey JE4 8YD  
United Kingdom

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** United Kingdom

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### GOODS AND/OR SERVICES

**International Class:** 009

**Class Status:** Active

Battery watering apparatus, namely, a battery watering device having several flow outlets to permit the replenishment of water of a secondary battery containing several cells by means of a unitary device

**Basis:** 1(a)

**First Use Date:** 2003-02-07

**First Use in Commerce Date:** 2003-02-07

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### ADDITIONAL INFORMATION

(NOT AVAILABLE)

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### MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

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### PROSECUTION HISTORY

2004-12-30 - TEAS Change Of Correspondence Received

2004-06-01 - Registered - Principal Register

2004-03-22 - Allowed for Registration - Principal Register (SOU accepted)

2004-03-15 - Assigned To Examiner

2004-03-11 - Case File In TICS

2004-03-08 - Statement of use processing complete

2004-02-06 - Amendment to Use filed

2004-02-06 - TEAS Statement of Use Received

2003-08-27 - Extension 2 granted

2003-08-11 - Extension 2 filed

2003-08-11 - TEAS Extension Received

2003-04-15 - Extension 1 granted

2003-02-10 - Extension 1 filed

2003-02-10 - TEAS Extension Received

2002-09-10 - TEAS Change Of Correspondence Received

2002-08-13 - Notice of allowance - mailed

2002-05-21 - Published for opposition

2002-05-01 - Notice of publication

2001-12-21 - Approved for Pub - Principal Register (Initial exam)

2001-10-12 - Communication received from applicant

2001-08-08 - Non-final action mailed

2001-07-23 - Assigned To Examiner

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### ATTORNEY/CORRESPONDENT INFORMATION

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#### **Attorney of Record**

William R. Hansen

#### **Correspondent**

William R. Hansen

Lathrop & Gage L.C.

Suite 1847

230 Park Avenue

New York NY 10169

Phone Number: (212) 850-6220

Fax Number: (212) 850-6221

#### **Domestic Representative**

NIMS, HOWES, COLLISON, HANSEN & LACKERT

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